



1-19-06

Patent

728256-100281

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Anthony MAGLICA

Application No.: 10/828,430

Filed: April 20, 2004

For: FLASHLIGHT

Confirmation No.: 5366

Group Art Unit: 2875

Examiner: Cariaso, Alan

01/20/2006 HDEMSS1 00000042 502468 10828430

01 FC:1251 120.00 DA

## RESPONSE TRANSMITTAL

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Response to the December 2, 2004 Office Action in the above-identified application.

- ☒ Applicant(s) petitions for an extension of time under 37 CFR § 1.136 [fees: 37 CFR § 1.17(a)(1)-(5)] for the total number of months checked below:

EXTENSION (months)	FEE FOR SMALL ENTITY	FEE FOR OTHER THAN SMALL ENTITY
1 month	<input type="checkbox"/> \$60.00	<input checked="" type="checkbox"/> \$120.00
2 months	<input type="checkbox"/> \$225.00	<input type="checkbox"/> \$450.00
3 months	<input type="checkbox"/> \$510.00	<input type="checkbox"/> \$1020.00
4 months	<input type="checkbox"/> \$795.00	<input type="checkbox"/> \$1,590.00
5 months	<input type="checkbox"/> \$1080.00	<input type="checkbox"/> \$2,160.00

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

CERTIFICATE OF MAILING  
(37 C.F.R. § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail Post Office To Address in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450

January 17, 2006  
Date of Deposit  
LAI-2222916v1

Shyh-Jye Wang  
Name of Person Mailing Paper

*Shyh-Jye Wang*  
Signature of Person Mailing Paper

☒ If an additional extension of time is required, please consider this a petition therefor.

**FEES FOR CLAIMS:**

☐ Applicant claims small entity status pursuant to 37 CFR 1.27.

The fees for claims (37 CFR § 1.16(b)-(d)) have been calculated as shown below:

Total Claims	10	-	20	=	0	x	\$50.00	\$0.00	
Independent Claims	3	-	3	=	0	x	\$200.00	\$0.00	
Multiple Dependent Claims	(if applicable)						<input type="checkbox"/>	\$0.00	
<b>TOTAL OF ABOVE CALCULATIONS</b>								\$0.00	
Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28.								<input type="checkbox"/>	\$0.00
<b>TOTAL FEES FOR CLAIMS SUBMITTED HERewith</b>								\$0.00	

**ADDITIONAL PAPERS:**

☐ Information Disclosure Statement.

**FEE PAYMENTS:**

☐ A check in the amount of \_\_\_\_\_ is enclosed to cover the above fee(s).

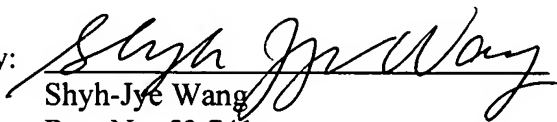
☒ Charge Jones Day's Deposit Account No. **50-2468** in the amount of **\$120.00**.

☒ The Commissioner is authorized to charge Jones Day's Deposit Account No. **50-2468** for any fees required under 37 CFR §§ 1.16 and 1.17 that are not covered, in whole or in part, by a check enclosed herewith and to credit any overpayments to said Deposit Account **50-2468**.

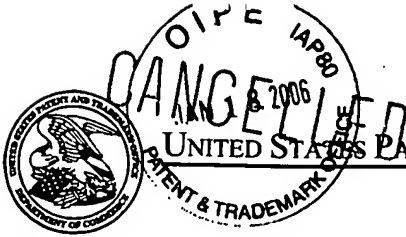
Respectfully submitted,

JONES DAY

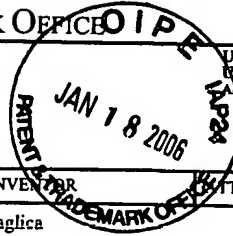
Dated: January 17, 2006

By:   
Shyh-Jye Wang  
Reg. No. 53,741

555 South Flower Street  
50<sup>th</sup> Floor  
Los Angeles, California 90071  
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UNITED STATES PATENT AND TRADEMARK OFFICE



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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,430	04/20/2004	Anthony Maglica	728256-100281	5366

34026 7590 09/15/2005

JONES DAY  
555 SOUTH FLOWER STREET FIFTIETH FLOOR  
LOS ANGELES, CA 90071

EXAMINER

CARIASO, ALAN B

ART UNIT PAPER NUMBER

2875

**RECEIVED**

SEP 28 2005

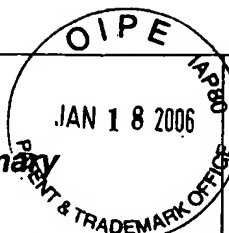
DATE MAILED: 09/15/2005

JONES DAY  
PATENT PROSECUTION DEPT.

NOTICE OF APPEAL DUE 12/15/05

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**



Application No.

10/828,430

Applicant(s)

MAGLICA, ANTHONY

Examiner

Alan Cariaso

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050531.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.



## DETAILED ACTION

### *Response to Amendment*

1. Receipt of applicant's amendment filed May 31, 2005 is acknowledged. Claims 8-10 are pending and claims 1-7 have been canceled.

### *Claim Objections*

2. Claim 9 is objected to because of the following informalities: Claim 9, line 5, the term "form" appears to be incorrect given the context. It appears it should instead be -- from--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by COOLIDGE et al (US 2,642,520).
5. COOLIDGE discloses a flashlight (fig.1, col.1, lines 1-4) comprising an enclosed housing (battery 36, fig.3) having a closed internal volume (col.6, lines 8-30) and a passage (54,56, fig.7) extending to atmosphere (fig.3) from the closed internal volume to atmosphere; a light source (17, fig.1); an electrical circuit (25,26,27,28,29,30,31,34) extending from said housing (36) to said light source (17); and a one-way valve (col.3,

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lines 33-36; 57-fig.7) in said passage (54,56) and adapted to permit gas to move from the internal volume to atmosphere (col.6, lines 23-30) while inhibit fluids from moving from atmosphere to the internal volume by any of the tight fitting of the collar valve (57) in the channel (56) so that liquid can pass and/or with the pressure force of gas escaping in one direction (col.6, lines 23-30); further comprising a head assembly (16) that is fluid tight when threadedly attached (fig.11) and connected to the housing (36).

### ***Allowable Subject Matter***

6. Claim 8 is allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: Claim 8 has allowable subject matter not disclosed or suggested by the prior art of record: a water resistant flashlight having a valve in the passage extending from the internal volume sized to receive one or more batteries.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. SHIMIZU shows a water resistant flashlight (fig.1) having an internal volume (air chamber 50) receiving one or more batteries (dry cells 40), a passage (vents 21-fig.2; annular space between top 13 and bottom 13 in fig.5; or grooves 63 & 64 in fig. 5) extending from the internal volume (50) of the flashlight to atmosphere; an annular band (22 or 60) about and in the passage (21-fig.2; 63,64, figs.4 or 5) and adapted to permit gas to move from the internal volume (50) to

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atmosphere while inhibiting fluids from moving from atmosphere to the internal volume (col.3, lines 41-65). MEAGER et al (US 2,897,345) show a gas-pressure relieving resilient collar (31,32,33) in water-tight association with vent passage (40) of the internal volume of the flashlight. BACON (US 2,855,497) shows a trigger valve housing (58) with plunger (74) in passage (72) that communicates with an internal volume of housing (container 18,10) of a flashlight.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso  
Primary Examiner  
Art Unit 2875

September 12, 2005  
AC



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

*(Use as many sheets as necessary)*

Sheet

1

of

1

**Complete if Known**

Application Number	10/828,430
Filing Date	April 20, 2004
First Named Inventor	Maglica
Art Unit	2875
Examiner Name	Alan Cariaso
Attorney Docket Number	728256-100281

## U. S. PATENT DOCUMENTS

[illegible]

## FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>d</sup>
		Country Code <sup>2</sup> Number <sup>3</sup> Kind Code <sup>5</sup> (if known)				
AC	AB	EP 0 266 160 A2	05-04-1988			
AC	AC	EP 0 269 323 A1	06-01-1988			
AC	AD	GB 884,212	12-13-1961			
AC	AE	GB 812,980	05-06-1959			

**Examiner  
Signature**

Date Considered

Aug 9, 2005

**EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

***If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.***

**Notice of References Cited**

Application/Control No.

10/828,430

Applicant(s)/Patent Under  
Reexamination  
MAGLICA, ANTHONY

Examiner

Alan Cariaso

Art Unit

2875

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-2,642,520	06-1953	COOLIDGE, Roger S; et. al.	362/183
	B	US-2,855,497	10-1958	BACON, FRANCIS DALE	362/96
	C	US-2,897,345	07-1959	MEAGER, WALTER VERNON; et. al.	362/158
	D	US-3,559,224	02-1971	SHIMIZU, KUNIO	362/158
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.